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ETHICAL COMPLAINT FILED AGAINST SENIOR U.S. FIFTH CIRCUIT JUDGE EDITH BROWN CLEMENT FOR BIASED STATEMENTS IN MISSISSIPPI VOTING RIGHTS CASE

AUSTIN, TX – A Complaint has been filed against Senior Judge Edith Brown Clement of the U.S. Fifth Circuit Court of Appeals today. The Complaint asserts that Judge Clement engaged in partisan, disrespectful attacks on her fellow judges on the Fifth Circuit in a recent voting redistricting case—in direct violation of the standards of conduct recently reaffirmed by U.S. Supreme Court Chief Justice John Roberts, Jr.

As Chief Justice Roberts recently stated: "We do not have Obama judges or Trump judges, Bush judges or Clinton judges . . . . What we have is an extraordinary group of dedicated judges doing their level best to do equal right to those appearing before them. That independent judiciary is something we should all be thankful for."[1]

Yet Judge Clement flouted that principle of American justice and judicial ethics in her written comments reviewing a trial court judge who ruled on behalf of African American voters in a Mississippi senate gerrymandering case. She was outvoted on the appeal, 2-1.

Judge Clement's statements included:

- "I am afraid defendants have simply had the poor luck of drawing a ***majority-minority*** panel."[2]

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[1] *See* Debra Cassens Weiss, *Chief Justice Roberts Defends Judicial Independence After Trump's 'Obama Judge' Criticism*, American Bar Association Journal (Nov. 21, 2018), available at: http://www.abajournal.com/news/article/chief_justice_roberts_criticizes_trumps_reference_to_obama_judge_in_asylum.

[2] A recent column in *Slate* explained Judge Clement's clearly intended disparagement, to the effect that "[t]he black, Democratic plaintiffs only won this round because they drew two liberal judges (who were appointed by Democrats), while most 5th Circuit judges (who were appointed by Republicans) would've ruled against them. Or, put cynically: These black voters only won their gerrymandering lawsuit because an Obama judge and a Clinton judge wound up on their panel." Mark Joseph Stern, *Fifth Circuit Judge Does Her Best Trump Impression in Opinion Attacking Liberal Colleagues,* available at: https://slate.com/news-and-politics/2019/03/clement-mississippi-reeves-senate-gerrymander.html.

- "The fact remains that [U.S. District Judge Carlton Reeves]'s order—perhaps, inadvertently—eliminated meaningful competition for Thomas ["a black Democrat" candidate] in the upcoming election. The majority says that Judge Reeves's plan is 'narrowly tailored.' Agreed—*it is 'narrowly tailored' to win Thomas the election*.'"

- "Unless we act now, the November election in Senate District 22 is all but decided. True, predictable election results are not uncommon. What is uncommon, however, is for a federal district judge to be the one to decide them."

Judge Clement's statements demonstrated a lack of respect for her fellow federal judges, a lack of judicial temperament, and a failure to maintain and observe the high standards of conduct required of federal judges.

Judge Clement violated the Code of Conduct of United States Judges by undermining "the integrity and independence of the judiciary" (Canon 1), failing "to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary" (Canon 2), failing to "perform [judicial] duties with respect for others" (Canon 3), and failing to be "patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity" (Canon 3A(3)).

Judge Clement's misconduct occurred in the case of *Thomas v. Bryant*, a voting-rights challenge to the boundaries of Mississippi State Senate District 22.

The Complaint was filed by James C. Harrington, an Austin civil rights attorney who founded the Texas Civil Rights Project in 1990 and retired from the Project in 2017.

A copy of the Complaint is included with this release.